

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IMS FUND, INC.,
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Plaintiff,
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20-CV-4463 (JMF)
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-v-
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SECOND PHASE, INC. ET AL,
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Defendants.
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ORDER

JESSE M. FURMAN, United States District Judge:

On July 2, 2020, Defendants filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that Plaintiff shall file any amended complaint by **July 23, 2020**. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.


If Plaintiff does amend, by three (3) weeks after the amended complaint is filed, Defendants shall: (1) file an answer; (2) file a new motion to dismiss; or (3) file a letter on ECF stating that it relies on the previously filed motion to dismiss. If Defendants file an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot. If Defendants file a new motion to dismiss, any opposition shall be filed within fourteen days, and any reply shall be filed within seven days of any opposition.

If no amended complaint is filed, Plaintiff shall file any opposition to the motion to dismiss by **July 23, 2020**. Defendants' reply, if any, shall be filed by **July 30, 2020**. At the time any reply is served, the moving party shall supply the Court with electronic copies of all motion papers by e-mailing them to Furman_NYSDChambers@nysd.uscourts.gov.

Finally, it is further ORDERED that the initial pretrial conference previously scheduled for October 6, 2020 is adjourned *sine die*.

SO ORDERED.

Dated: July 6, 2020
New York, New York



JESSE M. FURMAN
United States District Judge